EQUALITY COLORADO

FACT SHEET SERIES

• The Freedom to Marry •

for same-gender couples

BACKGROUND

In 1993, the Hawaii Supreme Court handed down a historic decision opening the door to equal marriage rights for lesbians and gay men. In sending the case *Baehr v. Lewin* back to trial court, the state's Supreme Court said that restrictions on same-gender marriage were probably in violation of the state's guarantee of equal protection on the basis of gender. Thus the state is faced with having to prove a "compelling" interest in maintaining its restriction. Given that this is a very difficult burden to meet, many experts are predicting that sometime in the next year and a half a final victory will win lesbians and gay men the freedom to marry, with all its myriad benefits, rights, and responsibilities.

The implications of a Hawaii victory extend well beyond our fiftieth state. Because of the US Constitution's clause that forces states to give "Full Faith and Credit" to the laws of other states, other states should be required to recognize all marriages performed in Hawaii as valid, even if such a marriage wouldn't be performed in the other state. This is what worries many of the radical right, and why they are working so hard to try to circumvent the Constitution by passing laws which would ban the recognition of same-gender marriages in other states.

WHAT IS MARRIAGE, ANYWAY?

When people use the term "marriage," they are often speaking about many things, including religious ceremonies. That's why it's important to remember that we're talking about *civil* marriage, a legal relationship recognized by the government. Clergy have never been forced to perform any wedding they felt was against their beliefs.

Without legal marriage, many lesbian and gay couples are in long-term relationships with all of the responsibilities of married couples, but are denied the vast array of legal, economic, and practical benefits that married couples enjoy. Most of these benefits are not affected by domestic partnership laws, and cannot be privately arranged or contracted through other means. Furthermore, countless privileges extended by private employers, businesses, and banks, apply to married couples only.

MORE INFO

To learn more about how to help win the freedom to marry, contact any of these organizations:

▸**Colorado Marriage Rights Project** c/o Equality Colorado • PO Box 300476 • Denver, CO 80203 • (303) 839-5540 • email: EqualityCO@aol.com • (303) 839-1361 (fax) • contact: Jonathan Kelley ▸**Lambda Legal Defense and Education Fund** Marriage Project • 666 Broadway, Suite 1200 • New York, NY 10010 • (212) 995-8585 • (212) 995-2306 fax • contact: Evan Wolfson ▸**National Gay & Lesbian Task Force** • 2320 17th Street NW • Washington, DC 20009 • (202) 332-6483 • (202) 332-0207 fax • contact: Robin Kane

FACTS & QUOTES

▸▸▸ FACT — Today **same-gender couples are not allowed to legally marry in any state,** and are often treated as no more than roommates under the law, no matter how long they've been together.

▸▸▸ FACT — Among the countless rights denied partners in a same-sex relationship include **immigration rights, inheritance rights,** and often **hospital visitation rights.**

▸▸▸ FACT — As recently as 1967, **many states banned interracial marriages,** claiming they were against God's will and thus should be outlawed.

▸▸▸ FACT — The state-appointed Commission on Sexual Orientation and the Law recommended that Hawaii grant the freedom to marry to same-sex couples.

❝❞ QUOTE — **"All people are entitled to equal rights.** [Marriage] is one of the rights, and we think they should have it." -- Tom Gill, Hawaii Commission chairman and former congressman and lieutenant governor.

▸▸▸ FACT — The list of organizations supporting the freedom to marry includes every major national gay, lesbian, and bisexual rights group, the ACLU, NOW, Japanese-American Citizen's League, and the National Association of Women in Education.

❝❞ QUOTE — "What do other people get married for? That's the same reason we want to get married." -- Joe Melillo, one of the six plaintiffs in *Baehr v. Lewin.*

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The Freedom to Marry, cont.

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talking points

☞ IT'S ABOUT EQUALITY

The goal of the gay rights movement has always been the achievement of equality in our society. For gay and lesbians to have true equality, we must have the ability to marry the partner of our choice. Anything less is unequal.

☞ REAL FAMILIES ARE AT STAKE

Attacks on equal marriage rights are attacks on real families -- families with children, with financial obligations and especially with the love that marriage is based on.

☞ RELIGIOUS FREEDOM PROMOTED

Because we are talking about **civil** marriage, no religion will be required to perform any marriage it doesn't want to perform. But for those clergy who would like to have the ceremonies they perform for same-gender couples validated, current marriage laws restrict their freedoms to do so.

☞ FAMILY STABILITY

For many, marriage creates or signifies the kind of stability that society says it wants to promote; by denying the right to same-gender couples, government is creating a Catch-22 -- labeling us as unstable yet denying us its hallmark of stability.

☞ THE RADICAL RIGHT IS ATTACKING ALL NON-TRADITIONAL FAMILIES

Anti-marriage legislation is promoted by the same groups who wish to limit the rights of single-parent and other non-traditional families. To them, there is only one kind of family. Everyone else is left out of their vision of America.

☞ THE DEFINITION OF MARRIAGE

The institution of marriage has undergone a number of changes historically. Women are no longer property of their husbands. No one can be forced to marry against their will. Interracial couples marry. Today we realize that the choice of a marriage partner belongs to each man and woman, not the state.

Of course, not every gay or lesbian couple would marry even if they could. Many heterosexual couples choose not to marry. But they do have the *right* to make that choice, the same right that same-gender couples desire. To deny that right deprives same-gender couples of the social, emotional, economic and legal significance that marriage may hold for them and their families.

A KEY PRECEDENT

Less than thirty years ago, the US Supreme Court finally struck down the last laws prohibiting interracial marriages. In *Loving v. Virginia*, the court acknowledged that while there might be a good deal of prejudice against such relationships, it was not right for the state to uphold these biases by interfering in these couples' fundamental right to marry.

ATTACKS ON SAME-GENDER MARRIAGE

It is crucial to understand the broader agenda of those most vehemently opposed to equal marriage rights for same-gender couples. They are the same people who oppose all rights of any sort for gays, lesbians, bisexuals, and transgender people. They attack schools and libraries for providing any information on homosexuality. They refuse to recognize any non-traditional families as deserving of equal rights.

In 1995, the Utah Legislature voted to ban any recognition of same-gender marriages performed in other states. More and more state legislatures, especially those fearful of the radical right, are proposing similar legislation. Their main argument is that marriage is for the purpose of procreation only. In their rush they are forgetting the many male-female married couples who choose not to or are unable to have children, as well as the many same-gender couples who are currently raising children despite the government-sanctioned discrimination.

WHAT YOU CAN DO

The battle for equality is a long one, but the day of equal marriage rights for all is closer than it's ever been. That's why it is important to become educated and to get active around this issue. Nationally, the Resolution in Support of Equal Marriage Rights has been signed by numerous organizations. It says "Because marriage is a basic human right and an individual personal choice, RESOLVED, the state should not interfere with same-gender couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage."

There are any number of ways in which everyone can help with the issue:

- Talk to every organization you are a part of, including social groups and faith communities. Ask them to sign on to the Marriage Resolution.
- Host a dinner party. Let your friends know about this key struggle for equality.
- Contact the Colorado Marriage Rights Project for more information and more ideas. We have a speakers bureau which tries to provide speakers at every engagement we're invited to.

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